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7 Attorneys for the Arizona State Board of Pharmacy

8  
9 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

10 In the Matter of

11 **Mark Placek,**

12 Holder of License No. 19541  
13 As a Pharmacist  
In the State of Arizona

Board Case No. 14-0018-PHR

**CONSENT AGREEMENT  
FOR PROBATION, CIVIL  
PENALTY AND CONTINUING  
EDUCATION**

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16 In the interest of a prompt and judicious settlement of this case, consistent with the  
17 public interest, statutory requirements and the responsibilities of the Arizona State Board  
18 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, Mark Placek ("Respondent"),  
19 holder of Pharmacist License No. 19541 in the State of Arizona and the Board enter into  
20 the following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent  
21 Agreement") as a final disposition of this matter.

22 **RECITALS**

23 1. Respondent has read and understands this Consent Agreement and has had  
24 the opportunity to discuss this Consent Agreement with an attorney, or has waived the  
25 opportunity to discuss this Consent Agreement with an attorney.  
26

1           2.     Respondent understands that he has a right to a public administrative  
2 hearing concerning this matter at which hearing he could present evidence and cross  
3 examine witnesses. By entering into this Consent Agreement, Respondent knowingly  
4 and voluntarily relinquishes all right to such an administrative hearing, as well as rights  
5 of rehearing, review, reconsideration, appeal, judicial review or any other administrative  
6 and/or judicial action, concerning the matters set forth herein.

7           3.     Respondent affirmatively agrees that this Consent Agreement shall be  
8 irrevocable.

9           4.     Respondent understands that this Consent Agreement or any part of the  
10 agreement may be considered in any future disciplinary action by the Board against him.

11          5.     Respondent understands this Consent Agreement deals with Board  
12 Complaints No. 4300, 4305 and 4313 involving allegations of unprofessional conduct  
13 against Respondent. The investigation into these allegations against Respondent shall be  
14 concluded upon the Board's adoption of this Consent Agreement.

15          6.     Respondent understands that this Consent Agreement does not constitute a  
16 dismissal or resolution of any other matters currently pending before the Board, if any,  
17 and does not constitute any waiver, express or implied, of the Board's statutory authority  
18 or jurisdiction regarding any other pending or future investigation, action or proceeding.

19          7.     Respondent also understands that acceptance of this Consent Agreement  
20 does not preclude any other agency, subdivision, or officer of this State from instituting  
21 any other civil or criminal proceedings with respect to the conduct that is the subject of  
22 this Consent Agreement.

23          8.     Respondent acknowledges and agrees that, upon signing this Consent  
24 Agreement and returning this document to the Board's Executive Director, he may not  
25 revoke his acceptance of the Consent Agreement or make any modifications to the  
26

1 document regardless of whether the Consent Agreement has been signed by the  
2 Executive Director. Any modification to this original document is ineffective and void  
3 unless mutually agreed by the parties in writing.

4 9. This Consent Agreement is subject to the approval of the Board and is  
5 effective only when accepted by the Board and signed by the Executive Director. In the  
6 event that the Board does not approve this Consent Agreement, it is withdrawn and shall  
7 be of no evidentiary value and shall not be relied upon nor introduced in any action by  
8 any party, except that the parties agree that should the Board reject this Consent  
9 Agreement and this case proceeds to hearing, Respondent shall assert no claim that the  
10 Board was prejudiced by its review and discussion of this document or any records  
11 relating thereto.

12 10. If a court of competent jurisdiction rules that any part of this Consent  
13 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement  
14 shall remain in full force and effect.

15 11. Respondent understands that this Consent Agreement is a public record that  
16 may be publicly disseminated as a formal action of the Board and may be reported as  
17 required by law to the National Practitioner Data Bank and the Healthcare Integrity and  
18 Protection Data Bank.

19 12. Respondent understands that any violation of this Consent Agreement  
20 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-  
21 1901.01(B) (20) and A.R.S. § - 1927(A) (1).

22 13. Respondent agrees that the Board will adopt the following Findings of Fact,  
23 Conclusions of Law and Order.

24 ...

25 ...

26 ...

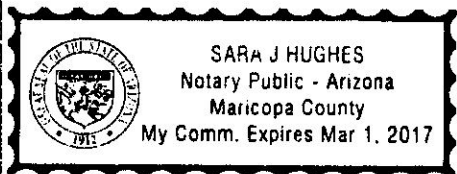
1 ACCEPTED AND AGREED BY RESPONDENT

2 Mark Placek

Dated: 8-28-14

3  
4 Mark Placek

5 Subscribed and sworn to before me in the County of Maricopa, State of Arizona,  
6 this 28 day of AUGUST, 2014, by Mark Placek.



11  
12 S. J. Hughes  
13 NOTARY PUBLIC

14 My Commission expires: 3/1/17

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**FINDINGS OF FACT**

1. The Board is the duly constituted authority for licensing and regulating the practice of pharmacy in the State of Arizona.

2. Respondent is the holder of license number 19541 to practice as a pharmacist in the State of Arizona.

3. During all relevant times to these findings, Respondent worked as a pharmacist at CVS Pharmacy # 5814 Pharmacy (the "Pharmacy") located at 9950 E. Guadalupe, Mesa, Arizona.

4. On or about December 17, 2013 the Pharmacy received an electronic prescription for Carbamazepine ER 200 mg. for patient E. V. The prescription was incorrectly typed by the pharmacy technician with directions of one (1) tablet in the morning and one (1) tablet at bedtime rather than one (1) tablet in the morning and two (2) tablets at bedtime. The prescription was stored for later use because patient E. V. had

1 plenty of medication from a current prescription. On February 21, 2014 patient E.V.  
2 requested a fill of the December 17, 2014 prescription for Carbamazepine ER 200 mg.  
3 The prescription was prepared by a pharmacy technician and transferred to Respondent  
4 for verification. During final inspection the error was not observed by Respondent and  
5 the prescription with the incorrect directions was dispensed to patient E.V. Respondent  
6 was the pharmacist on duty at the Pharmacy when the prescription was filled and did not  
7 recognize the error during verification.  
8

9         5. On or about February 8, 2014 the Pharmacy received a telephone  
10 prescription for Promethazine with Codeine with directions of one (1) to two (2)  
11 teaspoons twice a day for patient D. M. The prescription data was entered by a  
12 pharmacy technician as one (1) to two (2) mls. twice a day rather than one (1) to two (2)  
13 teaspoons twice a day. The prescription was filled as entered and transferred to  
14 Respondent for verification. During final inspection the error was not observed by  
15 Respondent and the prescription with the incorrect directions was dispensed to patient D.  
16 M. Respondent was the pharmacist on duty when the prescription was filled and did not  
17 recognize the error during verification.  
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19         6. On or about March 13, 2014 the Pharmacy received an electronic  
20 prescription for Cymbalta 30 mg. for patient D. M. The prescription data was entered by  
21 a pharmacy technician and verified by the staff pharmacist on duty that day. The data  
22 was incorrectly entered as Cymbalta 60 mg. rather than Cymbalta 30 mg. On March 14,  
23 2014 patient D. M. picked up the prescription order. Respondent was the pharmacist on  
24  
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1 duty at the Pharmacy when the medication was dispensed and did not recognize the error  
2 during final verification.

### 3 CONCLUSIONS OF LAW

4 1. The Board possesses jurisdiction over the subject matter and over  
5 Respondent pursuant to A.R.S. § 32-1901 *et seq.*

6 2. The Board may discipline a pharmacist who has engaged in unprofessional  
7 conduct. A.R.S. § 32-1927(A) (1).

8 3. The conduct and circumstances described above constitutes unprofessional  
9 conduct pursuant to A.R.S. § 32-1901.01(B) (2) (Violating any federal or state law, rule  
10 or regulation relating to the manufacture or distribution of drugs and devices or the  
11 practice of pharmacy).

12 4. The conduct described above violated Arizona Administrative Code R4-23-  
13 402(A)(10)(c) (In dispensing a prescription medication from a prescription order, a  
14 pharmacist shall check prescription order data entry to ensure that the data input  
15 communicates the prescriber's directions precisely by verifying dose, dosage form,  
16 route of administration, dosing frequency, and quantity).

17 5. The conduct described above violated Arizona Administrative Code R4-23-  
18 402(A) (11) (In dispensing a prescription medication from a prescription order, a  
19 pharmacist shall make a final accuracy check on the completed prescription medication  
20 and manually initial the finished label unless the computer system complies with A.A.C.  
21 R4-23-408 (B) (4).

### 22 ORDER

23 Based upon the above Findings of Fact and Conclusions of Law, IT IS HEREBY  
24 ORDERED THAT Respondent shall:  
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1        1.        Respondent's Pharmacist License No. 19541 is hereby placed on  
2 **PROBATION** for a period of one (1) year upon the adoption of this Consent Agreement  
3 by the Board.

4        2.        Pay a civil penalty of \$1,500.00 within **180 days** of the effective date of  
5 this Order; and

6        3.        Successfully complete and provide proof of successful completion to the  
7 Board of sixteen (16) contact hours (1.6 C.E.U.) of American Council on Pharmaceutical  
8 Education course(s) on the topic of patient safety. The required course(s) must be  
9 completed within **180 days** of the effective date of this Order, must be pre-approved by  
10 Board staff, and shall be in addition to the requirements of A.R.S. § 32-1936 and A.A.C.  
11 R4-23-204.

12        4.        Respondent shall pay all costs associated with complying with this Consent  
13 Agreement.

14        5.        If Respondent violates this Order in any way or fails to fulfill the  
15 requirements of this Order, the Board, after giving the Respondent notice and the  
16 opportunity to be heard, may revoke, suspend or take other disciplinary actions against  
17 Respondent's license. The issue at such a hearing will be limited solely to whether this  
18 Order has been violated.

19        6.        If Respondent pays the \$1,500.00 civil penalty in paragraph 2 of this Order  
20 and satisfies the education requirements of paragraph 3 of this Order before the end of the  
21 one (1) year probationary period, he may request in writing no sooner than 180 days  
22 from the effective date of this Order that the Board terminate the **PROBATION**.  
23 Respondent's request to terminate probation will be considered at a regularly scheduled  
24 Board meeting. Respondent is required to personally appear at that Board meeting.

1 DATED this 22 day of October, 2014.

3 ARIZONA STATE BOARD OF PHARMACY

4 (Seal)

6 By:



HAE WAND, R.Ph.  
Executive Director

9 ORIGINAL OF THE FOREGOING FILED  
10 this 22 day of October, 2014, with:

11 Arizona State Board of Pharmacy  
12 1616 W. Adams Street  
13 Phoenix, Arizona 85007

14 COPY OF THE FOREGOING MAILED  
15 BY CERTIFIED MAIL  
16 this 22 day of October, 2014, to:

17 Mark Placek  
18 18681 E. Ashridge Drive  
19 Queen Creek, Arizona 85412  
20 Respondent

21 COPY OF THE FOREGOING MAILED  
22 this 22 day of October, 2014, to:

23 Montgomery Lee  
24 Assistant Attorney General  
25 1275 W. Washington Street, CIV/LES  
26 Phoenix, Arizona 85007  
Attorney for the Board

Paid # 1056 / OE OK (TWP)

Doc #3877806